

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In re Applications of:

DAVID A. RINGER

et al.

Applications for Construction
Permit for a New FM Station,
Channel 280A, Westerville,
Ohio

MM Docket No. 93-107

File Nos. BPH-911230MA

through

BPH-911231MB

To: The Review Board

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MOTION TO STRIKE

Respectfully submitted,

OHIO RADIO ASSOCIATES, INC.

By: _____
Stephen T. Yelverton
1155 15th Street, N.W.
Suite 400
Washington, D.C. 20005
Telephone: (202) 659-3900

February 21, 1995

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MOTION TO STRIKE

Ohio Radio Associates, Inc. ("ORA"), by its attorneys, pursuant to Section 1.41 of the Commission's Rules, hereby submits this motion to strike. On February 13, 1995, ORA filed comments with the Review Board in order to bring to its attention a recent Commission decision in The Livingston Radio Company, FCC 94-320, rel. January 12, 1995.

On February 15, 1995, David A. Ringer ("Ringer") filed an opposition thereto. A portion of that opposition contains a material misstatement of fact which is of decisional significance. In support of its motion to strike this misstatement of fact, ORA submits the following.


On May 18, 1994, Ringer filed an amendment to his application which proposes a new tower site that is short-spaced to two existing stations. In his opposition, at para. 4, Ringer indicates that in proposing the short-spaced tower site he relies solely on the directional antenna provisions of Section 73.215 and not on the "grandfathering" provisions of Section 73.213. However, such a statement is factually incorrect and must therefore be stricken from the record because of its wholly misleading nature.

In his May 18, 1994, amendment, Exhibit 2, Part 2.0, Ringer admits that his proposal is not in compliance with the directional antenna provisions of Section 73.215 and thus invokes the "grandfathering" provisions of Section 73.213 (c) in order to justify the short-spacing. Accordingly, Ringer's reliance upon Section 73.213 (c) brings his short-spacing proposal squarely within the holding of Livingston which requires him to obtain the consent of the affected station.

WHEREFORE, in view of the foregoing, ORA requests that the Review Board strike from the record the cited portion of Ringer's opposition which is factually incorrect and misleading.

Respectfully submitted,

OHIO RADIO ASSOCIATES, INC.

By: 
Stephen T. Yelverton
1155 15th St., N.W., Suite 400
Washington, D.C. 20005
Tel. 202-659-3900

February 21, 1995

CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney, do hereby certify that on this 21st day of February, 1995, I have caused to be hand delivered or mailed, U.S. mail, postage prepaid, a copy of the foregoing "Motion to Strike" to the following:

Joseph A. Marino, Chairman
Review Board
Federal Communications Commission
Room 211
2000 L Street, N.W.
Washington, D.C. 20554

James Shook, Esquire
Hearing Branch
Federal Communications Commission
Room 7212
2025 M Street, N.W.
Washington, D.C. 20554

Arthur V. Belenduik, Esquire
Smithwick & Belenduik, P.C.
1990 M Street, N.W.
Suite 510
Washington, D.C. 20036
Counsel for David A. Ringer

James A. Koerner, Esquire
Baraff, Koerner, Olender & Hochberg, P.C.
5335 Wisconsin Avenue, N.W.
Suite 300
Washington, D.C. 20015-2003
Counsel for ASF Broadcasting Corp.

Eric S. Kravetz, Esquire
Brown, Finn & Nietert, Chartered
1920 N Street, N.W.
Suite 660
Washington, D.C. 20036
Counsel for Wilburn Industries, Inc.

Dan J. Alpert, Esquire
Law Office of Dan J. Alpert
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036
Counsel for Shellee F. Davis

Julian P. Freret, Esquire
Booth, Freret, and Imlay
1233 20th St., N.W., Suite 204
Washington, D.C. 20036
Counsel for Radio Stations WPAY/WPFB, Inc.



Stephen T. Yelverton